



Harney County

Subdivision and Partitioning Ordinance

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Harney County

SUBDIVISION AND PARTITIONING ORDINANCE

AN ORDINANCE PRESCRIBING REGULATIONS GOVERNING THE SUBDIVISIONS OF LAND, FOR THE PREPARATIONS, PROCEDURES AND APPROVAL OF SUBDIVISION PLATS AND IMPROVEMENTS, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF, IN THE UNINCORPORATED AREAS OF HARNEY COUNTY, OREGON.

ARTICLE 1. PURPOSES, ADMINISTRATION, PROVISIONS AND DEFINITIONS.....4

SECTION 101. ADOPTION.....4
 SECTION 102. PURPOSE AND OBJECTIVES.....4
 SECTION 103. SHORT TITLE.....5
 SECTION 104. APPLICATION - AUTHORITY FOR LOCAL REGULATION...5
 SECTION 105. ADVISORY ROLE OF THE COUNTY PLANNING COMMISSION6
 SECTION 106. RELATIONSHIP TO COMPREHENSIVE PLAN AND ZONING ORDINANCE6
 SECTION 107. RELATIONSHIP TO COMPREHENSIVE PLAN.....6
 SECTION 108. RELATIONSHIP TO ZONING ORDINANCE.....6
 SECTION 109. CONSTRUCTION AND DEFINITIONS7

ARTICLE 2. PHYSICAL IMPROVEMENT REQUIREMENTS ... 14

SECTION 201. RIGHTS-OF-WAY AND STREET IMPROVEMENTS 14
 SECTION 202. ALLEYS..... 14
 SECTION 203. DRAINAGE WORKS 15
 SECTION 204. SEWAGE DISPOSAL 15

SECTION 205. WATER SUPPLY AND FIRE SUPPRESSION..... 15
 SECTION 206. OTHER IMPROVEMENTS 15
 SECTION 207. MINIMUM RIGHTS-OF-WAY AND STREET IMPROVEMENTS 16

ARTICLE 3, SUBDIVISION DESIGN REQUIREMENTS..... 18

SECTION 301. STREETS 18
 SECTION 302. EASEMENTS23
 SECTION 303. FLOOD HAZARDS.....23
 SECTION 304. PLANNED UNIT DEVELOPMENTS24
 SECTION 305. ALLOCATION OF SPACE FOR PRIVATE AND PUBLIC FACILITIES AND RECREATION24
 SECTION 306. PARTIAL RECORDING BASED ON PRELIMINARY PLAT..... 25

ARTICLE 4, SUBDIVISION COMMITTEE.....26

SECTION 401. ESTABLISHMENT OF COMMITTEE26
 SECTION 402. DUTIES OF COMMITTEE26
 SECTION 403. SUBDIVISION CONFERENCE26

ARTICLE 5, PRELIMINARY PLAT 28

SECTION 501. FILING PROCEDURE ... 28
 SECTION 502. FORM AND SCALE OF PRELIMINARY PLAT29
 SECTION 503. INFORMATION ON PRELIMINARY PLAT29
 SECTION 504. FILING FEES31
 SECTION 505. SUBDIVISION, SERIES PARTITIONS AND MAJOR PARTITION REVIEW AND PLANNING COMMISSION ACTION31
 SECTION 506. MINOR PARTITION REVIEW33
 SECTION 507. TERMINATION OF PRELIMINARY MAP APPROVAL.....33

ARTICLE 6, FINAL PLAT34

SECTION 601. REQUIREMENTS 34

SECTION 602. FEES 34

SECTION 603. FORM OF FINAL PLAT.. 35

SECTION 604. INFORMATION ON THE
FINAL PLAT..... 35

SECTION 605. SURVEY REQUIREMENTS
..... 36

SECTION 606. CERTIFICATES ON FINAL
PLAT..... 36

SECTION 607. DEDICATIONS AND
PUBLIC UTILITY REQUIREMENTS..... 37

SECTION 608. DESIGNATION AND
CONVEYANCE OF RESERVE STRIPS AS
LOTS 37

SECTION 609. IMPROVEMENT PLANS . 38

SECTION 610. IMPROVEMENTS 38

SECTION 611. MONUMENTS 38

SECTION 612. EVIDENCE OF WATER
SUPPLY 38

SECTION 613. PROCEDURE FOR
PROCESSING FINAL PLAT..... 39

SECTION 614. IMPROVEMENTS
AGREEMENT 40

SECTION 615. DEED NOTATION OF
RESOURCE SITE..... 41

ARTICLE 7, VARIANCES42

SECTION 701. VARIANCES AUTHORIZED
..... 42

SECTION 702. APPLICATION 42

SECTION 703. REFERRALS..... 42

SECTION 704. ACTION OF PLANNING
COMMISSION..... 43

SECTION 705. APPEAL TO COUNTY
COURT..... 43

SECTION 706. PLANNED UNIT
DEVELOPMENT 44

**ARTICLE 8, PENALTIES,
ENFORCEMENT,
CONSTITUTIONALITY, ENACTMENT
.....46**

SECTION 801. PENALTIES 46

SECTION 802. ENFORCEMENT 46

SECTION 803. VOIDABLE CONVEYANCES
..... 47

SECTION 804. COMPLIANCE WITH
OREGON REAL ESTATE REGULATIONS
..... 47

SECTION 805. CONSTITUTIONALITY ... 47

SECTION 806. AMENDMENT, REPEAL. 47

SECTION 807. ENACTMENT 47

ARTICLE 1. PURPOSES, ADMINISTRATION, PROVISIONS AND DEFINITIONS

Sections:

101. [Adoption](#)
102. [Purpose and Objectives](#)
103. [Short Title](#)
104. [Application -Authority for Local Regulation](#)
105. [Advisory Role of County Planning Commission](#)
106. [Relationship to Comprehensive Plan and Zoning Ordinance](#)
107. [Relationship to Comprehensive Plan](#)
108. [Relationship to Zoning Ordinance](#)
109. [Construction and Definitions](#)

Section 101. Adoption

There is hereby adopted, as provided herein, a subdivision ordinance for the County of Harney, State of Oregon.

Section 102. Purpose and Objectives

The subdivision ordinance is adopted to preserve, protect and promote the public health, safety, convenience, prosperity and general welfare. More specifically the subdivision ordinance is adopted in order to achieve the following objectives:

- A. To aid in the implementation of the Comprehensive Plan of the County of Harney, and elements thereof, as adopted by the County Court.
- B. To provide lots of sufficient size and appropriate design for the purposes for which they are to be used, in accordance with the Harney County Comprehensive Plan.
- C. To assist in the implementation of the Oregon Statewide Land Use Goals and Guidelines.

- D. To implement the intent and purpose of the Land Use Zones throughout the county as they apply to particular properties.
- E. To provide streets of adequate capacity for the anticipated traffic, which would utilize them, and to assure that they are designed to promote a safe vehicular and pedestrian traffic circulation system.
- F. To accommodate new development in a manner which will preserve and enhance the County's living environment and create new beauty through skilled subdivision design.
- G. To provide for water supply, sewage disposal, storm drainage and other utilities and facilities which may be required by conditions of an urban rural environment.
- H. To protect and enhance real property values.
- I. To coordinate subdivision policies and regulations of the County with those of cities within the County in order to facilitate transition from county to municipal jurisdiction that land which is developed first in unincorporated territory and is annexed subsequently to city; and, to assure unimpeded development of such new urban expansion that is logical, desirable and in accordance with the goals, objectives and policies of the County's Comprehensive Plan, and the Urban Growth Management Agreement as adopted by the County and Cities.
- J. To protect and conserve renewable energy resources, and to allow for their continued availability and utilization.

Section 103. Short Title

This ordinance shall be known as the "Subdivision Ordinance."

Section 104. Application - Authority for Local Regulation

Pursuant to the provisions of Chapter 92 of the Oregon Revised Statutes, referred to herein as the Plats and Subdivision Act, and in addition to any other regulations provided by law, the regulations hereinafter in this ordinance contained shall apply to all subdivisions or parts of subdivisions whether presently existing or hereafter made, entirely or partially, within the unincorporated limits of Harney County. Provided, however, that this section

shall not affect any property which has been sold prior to the adoption of this ordinance and, subject to and must comply with all sections of this ordinance prior to any further sales within such subdivision.

Section 105. Advisory Role of the County Planning Commission

The Planning Commission of the County of Harney, State of Oregon, is hereby charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions. The Commission shall have such additional powers and duties with respect to subdivisions, the maps thereof and the procedure relating thereof as are prescribed by the Plats and Subdivision Act and by this ordinance.

Section 106. Relationship to Comprehensive Plan and Zoning Ordinance

The subdivision plat shall conform to the policies of the Comprehensive Plan and implementing zoning ordinances as adopted by the County Court, with respect to the type and density of land use, population densities and distribution, locations and sizes of public areas, and rights-of-way and improvement of streets.

Section 107. Relationship to Comprehensive Plan

The alignments of streets or highways within a subdivision plat shall conform generally with the alignments of streets or highways shown on the Comprehensive Plan or an element thereof.

Section 108. Relationship to Zoning Ordinance

A subdivision plat shall conform in all respects with applicable regulations of the zoning ordinance.

Section 109. Construction and Definitions

A. CONSTRUCTION

1. TENSE: Words used in the present tense include the future tense.
2. NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.
3. SHALL AND MAY: The word "shall" is mandatory; the word "may" is permissive.
4. GENDER: The masculine shall include the feminine and neuter.
5. HEADINGS: In the event there is any conflict or inconsistency between the heading of an article, section or paragraph of this ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

B. GENERAL TERMINOLOGY

The word "County" shall mean the County of Harney, Oregon. The words "County Court" shall mean the County Board of Commissioners of the County of Harney. The words "Planning Commission" and "Commission" shall mean the Planning Commission duly appointed by the County Court. The words "Planning Director", " Roadmaster", "County Surveyor", and "Assessor" shall mean the Planning Director, County Roadmaster, County Surveyor, and Assessor of the County of Harney.

C. LOTS CREATED FOR THE PURPOSE OF FINANCING

The lot size minimums established by the Zoning Ordinance shall not apply to lots created solely for the purpose of financing the sale of a lot. Such lots shall be required to be partitioned in the manner provided in any Ordinance adopted by Harney County controlling subdivision and partitioning adopted pursuant to ORS 92.044 and 92.046. Lots created for the purpose of financing shall carry the following conditions:

1. That the lots shall not be sold separately.
2. That only one single permitted use will be permitted on the lots created, considered in their aggregate.

3. That the smallest of the lots created shall not be less than one acre.
4. That the lots will be recombined by the County Assessor on completion of the financing arrangements.

D. DEFINITIONS

For the purpose of this ordinance, certain words and terms used herein are defined as follows:

1. ALLEY - A public way, 20 feet in width, permanently dedicated or reserved as a secondary means of access to abutting property.
2. BLOCK - A contiguous series of lots bounded on all sides by streets, railroad right-of-way, unsubdivided land or watercourse.
3. BUILDING LINE - A dashed line on a plat restricting the location of buildings or structures, or that distance as prescribed by the zoning ordinance, when applicable.
4. COMPREHENSIVE PLAN - A plan adopted by the Planning Commission and County Court and acknowledged by the State of Oregon Land Conservation and Development Commission providing objectives and policy guidelines for the growth and development of the County, including amendments thereto.
5. FIRE BREAK - A break in the ground cover fuels as specified by the fire protection agency involved.
6. LOT - A single parcel of land for which a legal description is filed on record or the boundaries of which are shown on a subdivision plat filed in the office of the County Clerk. The term "lot" shall include a part of a single parcel of land when such part is used as though a separate lot for all purposes and under all requirements of this ordinance: Except for the parcel of land on which condominium structures are placed. The term "lot" does not include condominium as used under ORS 91.505 through 91.675 "Unit Ownership Law".
7. LOT AREA - The total horizontal net area within the lot lines of a lot.
8. LOT, CORNER - A lot situated at the intersection of two (2) or more streets, which have an angle of intersection of not more than 135 degrees.
9. LOT DEPTH - The depth of a lot shall be the horizontal length of a straight line connecting the bisecting points of the front and rear lot lines.

10. LOT, DOUBLE FRONTAGE - An interior lot having frontage on and with access on two (2) parallel or approximately parallel streets.
11. LOT, INTERIOR - A lot other than a corner lot or reserve corner lot.
12. LOT, KEY - The first lot to the rear of a reversed corner lot whether or not separated by an alley.
13. LOT LINE, FRONT - In the case of an interior lot, a line separating the lot from the street. In the case of a corner lot, the line separating the narrowest street frontage of the lot line from the street.
14. LOT LINE, REAR - A lot line which is opposite and most distant from the front lot line
15. LOT LINE, SIDE - Any lot boundary line not a front lot line or a rear lot line.
16. LOT, REVERSED CORNER - A corner lot which rears upon the side yard of another lot.
17. LOT WIDTH - The average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
18. MAJOR PARTITION - A partition which includes the creation of a road or street.
19. MINOR PARTITION - A partition that is subject to approval by a city or county under a regulation or ordinance adopted pursuant to ORS 92.046 and that does not include the creation of a road or street.
20. PARTITION - Either an act of partitioning land or an area or tract of land partitioned as defined in ORS 92.010.
21. PARTITION LAND - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosures of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and "partition land" does not include any common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning

ordinance. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

22. PLAT - A final map, diagram, drawing or replat containing all descriptions, locations, specifications, dedications, provisions and information concerning a subdivision as specified by this ordinance.
23. RENEWABLE ENERGY RESOURCES. Biomass, geothermal, wind, solar, and hydro resources.
24. RESERVE STRIP - A strip of property, contiguous to a public way, which is offered to the County for street purposes but which offer is not accepted by the County until additional adjacent right-of-way is acquired by the County, and across which the access rights are abandoned until such time as the additional adjacent right-of-way is acquired by the County.
25. RIGHT-OF-WAY - The area between the boundary lines of an alley, easement, street or highway.
26. ROADWAY - The portion or portions of the right-of-way of a street or highway developed for vehicular traffic.
27. SERIES PARTITIONED LANDS AND SERIES PARTITION - A series of partitions of land resulting in the creation of four or more parcels over a period of more than one calendar year and whether composed of a series of minor partitions, a series of major partitions or a series combining both major or minor partitions.
28. SERIES PARTITIONER - Any person who causes land to be series partitioned into a series partition, or who undertakes to develop a series partition, but does not include a public agency or officer authorized by law to make partitions.
29. STANDARD SPECIFICATIONS - Specifications of the County of Harney established by recommendation of the Planning Commission and adopted by resolution of the County Court pertaining to the design and installation of subdivision improvements, copies of which are on file in the offices of the Planning Director and County Roadmaster and to which reference is made and which contain the minimum requirements for the design and construction of improvements covered by this ordinance.
30. STREET - The entire area between the right-of-way lines of any public way other than an alley used or intended to be used for vehicular traffic, including public ways designated as roads, highways, lanes, places, circles, avenues or by other similar designations.

- a. Arterial - A street designated as an arterial which is used or is intended to be used as part of the principal network of through traffic within the county.
 - b. Collector Street or County Feeder Road - A street designated as a Collector Street or County Feeder Road on the Comprehensive Plan or an element thereof which is used or is intended to be used principally for the movement of traffic between major arterials and local streets and roads within the county.
 - c. Local Street - A street which is used or intended to be used for providing the primary access to abutting lots within a subdivision.
 - d. Cul-de-sac - A minor street having only one outlet for vehicular traffic, with a turn-a-round at the opposite end, which is not intended to be extended or continued to serve future subdivisions or development on adjacent lands.
 - e. Frontage Road - A street which is parallel to and adjacent to a major arterial, limited access highway or free-way, and which provides access to abutting properties while relieving them of the effects of through traffic on the adjacent parallel facility.
 - f. Stubbed Street - A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or development on adjacent land.
 - g. Half Street - A street having only a portion of its width provided in one subdivision, with the remainder of its width to be provided through the subdivision of adjacent property.
31. SUBDIVIDE LAND - "Subdivide land" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
32. SUBDIVIDER - "Subdivider" refers to any person, firm, corporation, partnership or association who causes land to be divided into subdivision as defined herein.
33. SUBDIVISION - An act of subdividing land or a tract of land subdivided as defined in the Section.

- a. Rural Recreation Subdivision - subdivision located in an area zoned as Rural Recreational, with lots having an area ranging from (5) acres to forty (40) acres.
- b. Rural Residential Subdivision - A subdivision located in an area zoned as Rural Residential, with lots having an area ranging from five (5) acres to forty (40) acres.
- c. Rural Subdivision - A subdivision located in an area designated by the Comprehensive Plan for agricultural use with lots having a gross area ranging from forty (40) acres or more.
- d. Planned Development Subdivision - A subdivision of land which is designed to provide an open space or recreation area for the direct use and benefit of all the lot owners within the subdivision. A planned development includes a "Planned Unit", a "Homes Association" and "Common Property" which are defined as follows:
 - 1. Planned-unit: A land area which (1) has both individual building sites and open space, known as common property such as a park, and (2) is designed and organized to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property; the ownership of the common property may be either public or private.
 - 2. Homeowners association: An incorporated, non-profit corporation to operate under recorded land agreements through which (a) each lot owner in a planned-unit or other described land area is automatically a member, and (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.
 - 3. Common property: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in the planned-unit.

ARTICLE 2. PHYSICAL IMPROVEMENT REQUIREMENTS

Sections:

- 201. [Rights-of-Way and Street Improvements](#)
- 202. [Alleys](#)
- 203. [Drainage Works](#)
- 204. [Sewage Disposal](#)
- 205. [Water Supply and Fire Suppression](#)
- 206. [Other Improvements](#)
- 207. [Minimum Rights-of-Way and Street Improvements](#)

Section 201. Rights-of-Way and Street Improvements

Street or road rights-of-way and street and road improvements shall be provided in accordance with the minimum standards for the various classes of subdivisions prescribed in Section 207 of this ordinance, and shall be constructed to the Standard Specifications for Design and Construction as adopted by resolution of the County Court and on record at the time of Planning Commission approval of the preliminary plat.

No subdivision shall be recorded unless improved public access in accordance with Section 207 is provided from the subdivision to a street maintained by a city or the County or to a highway maintained by the State. Where the provision of public access requires the crossing of federal lands, approval shall be obtained from the federal agency having jurisdiction over said lands crossed and shall improve such access to the standards prescribed in Section 207. Where subdivision requires an access approach to a state highway, approval shall be obtained from the State Highway Department prior to Planning Commission approval of the preliminary plat.

Section 202. Alleys

Alleys 20 feet in width may be required at the rear of lots proposed for commercial or industrial subdivisions. Alleys in residential areas shall be discouraged.

Section 203. Drainage Works

The subdivider shall provide such drainage structures or improvements as may be necessary to prevent the ponding of surface water within the roadway of a street, and to assure the unimpeded flow of water within natural drainage courses traversed by a street.

Section 204. Sewage Disposal

Sewage disposal facilities shall be provided for each lot within a rural recreation, rural residential, and rural and planned development subdivision in accordance with the requirements and standards of disposal administered by and under the jurisdiction of the Department of Environmental Quality. The subdivider shall be responsible for providing the necessary information required by said department to determine lot sizes and adequacy of sewage facilities.

Section 205. Water Supply and Fire Suppression

Facilities for the provision of domestic water supply and fire suppression shall be provided as follows:

RURAL RECREATION AND RURAL SUBDIVISIONS

In any recreation, rural residential, or rural subdivision where lots are to be greater than five (5) acres in area and where sewage disposal is to be provided by means of individual sewage disposal systems, water may be supplied from wells in individual lots provided that the Department of Environmental Quality determines that individual sewage disposal systems will be located and constructed so as not to contaminate any existing or proposed well, or any existing stream or underground water supply on the property to be subdivided or on adjoining property.

Section 206. Other Improvements

In addition to the improvements required under other Sections of this Article, the subdivider may be required to provide other improvements because of specific features of the land and the design and location of the subdivision. Improvements such as bridges, culverts, and the fencing of watercourses, rights-of-way and recreation areas and facilities may be required where necessary for the health, safety and general welfare of residents of the subdivision.

- A. FIRE PROTECTION: Provisions for fire protection shall be made where forest or other vegetation is likely to constitute a fire hazard, as follows:
1. Firebreaks: Firebreaks shall be provided as may be specified by the appropriate fire protection agency. Access roads may be used as fire breaks where provided at suitable locations.
 2. Emergency Access: An improved all-weather access road from the subdivision may be required by the Planning Commission for purposes of fire protection egress and ingress to insure public safety as may be specified by the appropriate fire protection agency.
 3. Water Facilities: In subdivisions where fire suppression facilities are not specified under Section 205, water facilities for fire protection shall be provided as may be specified by the appropriate agency.
- B. CONSTRUCTION OF OPEN DITCHES: No open ditches may be constructed for the purpose of lowering a water table. French drains or underground tile systems may be installed in a manner specified or approved by the County Engineer.

Section 207. Minimum Rights-of-Way and Street Improvements

Where a subdivision abutts an existing paved County maintained road or roads, the subdivider shall dedicate that additional right-of-way required to bring the road to one-half the standard right-of-way prescribed for the type of road involved. If an abutting road is not dedicated and improved to the standards specified in this section, the subdivider shall dedicate and may be required to improve such road for the type involved except as provided in Section 301 (J) or may be required to provide a performance bond for the improvement of such road as prescribed in Section 614 of this ordinance. Street rights-of-way and improvements shall be provided as specified in the following Tables for the type of subdivision involved. Specific standards for the design and construction of improvements not shown herein shall be in accordance with adopted County Standards and Specifications.

- A. RURAL RECREATION AND RURAL SUBDIVISIONS (See Table 1)

ARTICLE 3, SUBDIVISION DESIGN REQUIREMENTS

Sections:

- 301. [Streets](#)
- 302. [Easements](#)
- 303. [Flood Hazards](#)
- 304. [Planned Unit Developments Recreation](#)
- 305. [Allocation of Space for Public and Private Facilities and Recreation](#)
- 306. [Partial Recording Based on Preliminary Plat](#)

Section 301. Streets

Section 301. Streets

A. Definitions.

1. Accessway. A walkway that provides pedestrian and bicycle passage either between roads or from a road to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.
2. Bicycle. A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with two tandem wheels at least 14 inches in diameter. An adult tricycle is considered a bicycle.
3. Bicycle Facilities. A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

4. Bikeway. Any road, path or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. (These are further defined in the Harney County Bicycle and Pedestrian Plan).
5. Pedestrian Facilities (also walkway). A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths and trails.
6. Neighborhood Activity Center. An attractor or destination for residents of surrounding residential areas. Includes, but is not limited to existing or planned schools, parks, shopping areas, transit stops, employment areas.
7. Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.
8. Safe and convenient. Bicycle and pedestrian routes that are:
 - a. Reasonably free from hazards, and
 - b. Provides a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile or less for pedestrians and three miles or less for bicyclists.
9. Walkway. A hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways.

A. Standards for Bicycle and Pedestrian Circulation.

1. Bicycle Parking. The development shall include the number and type of bicycle parking facilities required in the Off-Street Parking and Loading section of this Title. The location and design of bicycle parking facilities shall be indicated on the site plan.
2. Pedestrian Access and Circulation.
 - a. Internal pedestrian circulation shall be provided in new commercial, office and multi-family residential developments through the clustering of buildings, construction of hard surface walkways, landscaping, accessways, or similar techniques.

3. Commercial Development Standards.

- a. New commercial buildings, particularly retail shipping and offices, shall be oriented to the street, near or at the setback line. A main entrance shall be oriented to the street. For lots with more than two front yards, the building(s) shall be oriented to the two busiest streets.
 - b. Off-Street motor vehicle parking for new commercial developments shall be located at the side or behind the building(s).
4. All site plans (industrial and commercial) shall clearly show how the site's internal pedestrian and bicycle facilities connect with external existing or planned facilities or systems.
5. Approval of Subdivision Tentative Plans and Final Plats. Information required shall include the location and design of all proposed pedestrian and bicycle facilities, including accessways.

C. Cul-de-Sacs and Accessways

1. Cul-de-sacs or permanent dead-end roads may be used as part of a development plan; however through roads are encouraged except where topographical, environmental, or existing adjacent land use constraints make connecting roads infeasible. Where cul-de-sacs are planned, accessways shall be provide connecting the ends of cul-de-sacs to each other, to other roads, or to neighborhood activity centers.
2. Accessways for pedestrians and bicyclists shall be 10 feet wide and located within a 20-foot-wide right-of-way or easement. If the roads within the subdivision are lighted, the accessways shall also be lighted. Stairs or switchback paths may be used where grades are steep.
3. Accessways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than 600 feet.
4. The Hearings Body or Planning Director may determine, based upon evidence in the record, that an accessway is impracticable. Such evidence may include but is not limited to:
 - a. Physical or topographic conditions make an accessway connection impractical. Such conditions include but are not limited to extremely steep slopes, wetlands, or other bodies of water where a connection cannot reasonably be provided.

Planning Commission finds it will be practical to require the dedication and improvement of the other half when the adjoining property is subdivided. Half streets shall not be permitted where lots would front on such streets. Where half streets are provided, a performance bond may be required to insure full improvements until such time as the remaining half street on adjacent property is dedicated and improved. Whenever an existing half street is adjacent and parallel to the boundary line of a proposed subdivision, the subdivider shall dedicate and improve such additional right-of-way as may be necessary to meet the standards prescribed under Section 207 of this ordinance for the type of street involved.

G. Reserve Strips:

1. A one (1) foot reserve strip shall be provided at the dead-end of a stubbed street and along the boundary line of the subdivision adjacent to a half street and shall be offered for dedication to the County for future street purposes. Reserve strips at other locations and for other purposes shall not be approved.
2. Reserve strips shall be designed on the final plat of the subdivision and shall be specifically referred to in the dedication certificate.

H. Existing Streets: Whenever existing streets adjacent to or within a subdivision are of inadequate width, additional right-of-way and improvements shall be provided at the time of subdivision in accordance with the standards prescribed under Section 207 of this ordinance.

I. Cul-de-sacs: Except where special circumstances of design are apparent, cul-de-sacs shall not have a length of more than 800 feet in length in rural recreation, rural residential, or rural subdivisions and shall terminate with a turn-around with a radius of not less than 45 feet.

J. Frontage Roads and Non-Access Rights: Where property is to front upon a major arterial, a frontage road separated from the major arterial may be required for access to the subdivision. Where property is to front upon a limited access highway, a frontage road separated from the limited access highway shall be provided for access to the subdivision. Frontage roads will not be required when the lots of the subdivision back-on to a major arterial, limited access highway, and where access rights to said major arterial, limited access highway have been acquired previously by a public agency or are offered for dedication. Where a frontage road is provided, or where lots are proposed to back-on or side-on to a major arterial or limited access highway and access rights to the rear of said lot are offered for dedication, the improvement requirements of this ordinance pertaining to the major arterial or limited access highway shall not be required.

- K. Railroad Grade Crossing: Where a subdivision adjoins or contains a railroad right-of-way and the design of the subdivision includes a major arterial or collector street crossing of the railroad, the design of the street crossing shall take due consideration of the minimum distance required for approach grades and right-of-way width required for a future grade separation of the railroad.
- L. Street Names: Except for continuations of existing streets, no street name shall duplicate or be confused with the names of existing streets. In the absence of an Official Plan, street names and numbers shall conform with the policy of the Planning Commission and the County Court, which policy shall take due consideration of the established pattern in the surrounding area.

Section 302. Easements

- A. Utility easements: Easements shall be provided along property lines where necessary for the placement of overhead or underground utilities and where necessary to provide the subdivision with electric power, communication facilities, street lighting, sewer lines, water lines, gas lines or drainage. Such easements shall be labeled "Public Utility Easement" on the preliminary and final plat; they shall be at least 12 feet in width and centered on lot lines where possible except for utility pole guyline easements which may be reduced to six (6) feet in width and easements along the rear of lots adjacent to unsubdivided land which may be reduced to 10 feet in width.
- B. Pedestrian Easements: When desirable for public convenience, pedestrian easements may be required to connect to cul-de-sacs or to pass through unusually long or odd shaped blocks.

Section 303. Flood Hazards

Areas which are subject to the ponding of surface waters, or of flooding caused by surface waters or high water table shall not be subdivided until necessary measures, as documented by the United States Department of Housing and Urban Development, have been taken or are required to be taken as a condition of approval of the preliminary plat to eliminate the hazard involved. An investigation and report shall be made to the Planning Commission on the adequacy of measures taken or proposed to be taken by the subdivider to eliminate the hazard. The existence of such hazard may be cause for disapproval of the preliminary plat.

Section 304. Planned Unit Developments

Where a planned unit development has been authorized pursuant to applicable zoning regulations, the plan of the subdivision shall conform with the plan of the Planned Unit Development as approved by the Planning Commission and County Court. Where a planned unit approach to property development is desired by a subdivider, but where provisions of a zoning ordinance are not applicable, the subdivider may request approval of a planned unit development and the Planning Commission may authorize exceptions to the regulations in this ordinance with the provisions of Article 7 of this ordinance.

Section 305. Allocation of Space for Private and Public Facilities and Recreation

- A. Common Recreation and Open Space and Facilities for the Exclusive Use of Property Owners Within the Subdivision: The Subdivider is encouraged to include in the proposed subdivision such recreation space and facilities for the use of property owners within the subdivision as may be necessary and desirable to enhance the environment of the subdivision. Such space and facilities should be located so as to be within reasonable walking distance of all lots within the subdivision.
- B. Public Facilities and Recreation: Consideration shall be given by the subdivider to the reservation of sites for solid waste pick up and disposal, schools, park and recreation and other essential public services and facilities required to serve the subdivision. The reservation of sites required for general public service, use and enjoyment may be made the subject of conditional approval of the preliminary plat by the Planning Commission provided, however, that the Planning Commission can make the following findings:
1. That sites required are consistent with policies and proposals of the Comprehensive Plan or elements thereof.
 2. That sites required will be purchased for public use within one (1) year after the recording of the final plat of the subdivision, and that evidence of such intent to purchase has been submitted in writing by a public agency having authority for such purchase.
 3. That the intended use of sites required will be compatible with the intended use of property within the remainder of the subdivision. In no case shall the Planning Commission require the dedication and development of sites covered by this paragraph by the subdivider as a condition of approving the preliminary plat; however, the subdivider may

voluntarily make such dedication. The subdivider shall indicate, as part of the preliminary plat, how sites reserved for public use would be developed other wise in the event they are not purchased by a public agency within the time period specified under this paragraph. Extension of the time period within which sites may be required to be reserved for public use is at the sole option of the subdivider.

Section 306. Partial Recording Based On Preliminary Plat

Where a final plat is proposed to be recorded on only a part of the area included within an approved preliminary plat, the preliminary plat shall be prepared in such a manner that such partial recording will result in compliance with all of the applicable provisions of Articles 2 and 3 of this ordinance.

Renewable Energy Resource Sites: Where a land development is proposed within or adjacent to an inventoried resource site (1C), the County through the Planning Commission and/or County Court, may require additional set backs and/or screening necessary for assuring compatibility between uses.

ARTICLE 4, SUBDIVISION

COMMITTEE

Sections:

- 401. [Establishment of Committee](#)
- 402. [Duties of Committee](#)
- 403. [Subdivision Conference](#)

Section 401. Establishment of Committee

There is hereby established a Subdivision Committee to act in a technical capacity for the Planning Commission and County Court. The Subdivision Committee members shall consist of the County Planning Commission Chairman who shall be the Chairman, a member of the Harney County Court, the County Roadmaster and the County Engineer.

Section 402. Duties of Committee

It shall be the duty of the Subdivision Committee to examine and review all preliminary plats and make its recommendations to the Planning Commission in accordance with the procedures outlined in Section 506 of this ordinance. The Committee shall establish regular meeting dates and rules of procedure and shall publish such dates and procedures.

Section 403. Subdivision Conference

The Planning Commission Chairman shall schedule a Subdivision Committee conference with the subdivider and/or his planner, engineer or surveyor. The subdivision committee members (or duly authorized representatives) shall attend the conference. Representatives of other agencies as outlined in Section 501, C. of this ordinance, may attend and shall be encouraged by the Planning Commission Chairman to attend the subdivision conference. As a result of the discussion between the subdivider and/or his engineer or surveyor and the Subdivision Committee, the subdivider may request such additional meetings as may be necessary.

ARTICLE 5, PRELIMINARY PLAT

Sections:

- 501. [Filing Procedure](#)
- 502. [Form and Scale of Preliminary Plat](#)
- 503. [Information on Preliminary Plat](#)
- 504. [Filing Fees](#)
- 505. [Subdivision, Series Partitions and Major Partition Review and Planning Commission Action](#)
- 506. [Minor Partition Review](#)
- 507. [Termination of Preliminary Map Approval](#)

Section 501. Filing Procedure

- A. A notice of intent to file a preliminary plat and a request for a hearing date shall be given to the Planning Department five (5) days prior to a regular Planning Commission meeting. The preliminary plat shall be filed twenty (20) days prior to the scheduled hearing date.
- B. The subdivider, partitioner or series partitioner shall prepare a preliminary plat in accordance with the provisions of this ordinance, which shall be filed with the County Planning Commission. Such filing shall be made prior to the initiation of any construction work within the proposed subdivision, which might be affected by changes in the preliminary plat.
- C. The time for filing the preliminary plat shall be construed to be the time when the preliminary plat is filed with and officially received by the County Planning Commission.
- D. The subdivider, partitioner or series partitioner shall file twenty (20) copies of the preliminary plat with the Harney County Planning Commission. Within three (3) working days after said filing, the Planning Commission shall transmit one (1) copy to each of the following: County Engineer; County Roadmaster; County Assessor; County Court; the Oregon State Department of Environmental Quality; State Highway Department where applicable, school district within which jurisdiction the subdivision is located; any public or private utilities serving the area; and the fire protection agency where involved. In addition, copies will be provided to the Cities of Burns and Hines in accordance with the Urban Growth Management Agreement. The applicant shall provide additional copies of the preliminary map, where necessary to permit transmittal to all parties listed above. Transmittal shall

include a request for comments and recommendations, which may assist the Planning Commission in the review of the preliminary plat.

Section 502. Form and Scale of Preliminary Plat

The preliminary plat shall be clearly and legibly drawn. It need not be a finished drawing, but it shall show all pertinent information to scale in order that the Planning Commission may have adequate understanding of what is proposed during the review process. The scale of the preliminary plat shall be one (1) inch equals 100 feet for areas under 40 acres, and shall be one (1) inch equals 200 feet for areas over 40 acres.

Section 503. Information on Preliminary Plat

A. GENERAL INFORMATION

1. NAME

- a. For subdivisions, a subdivision name which does not conflict with the name of an existing subdivision, and a plat number assigned by the Planning Director preceded by the words "Preliminary Plat No.____."
 - b. For partitions, a map number assigned by the Planning Director preceded by the words "Preliminary Map No.____." A name, which does not conflict, with the name of an existing subdivision or partition is optional.
2. Name and address of the owner and/or subdivider.
 3. Name and address of the planner, licensed engineer or surveyor who prepared the plat.
 4. Date of preparation, north point, scale, approximate acreage and boundary lines.

B. INFORMATION CONCERNING EXISTING CONDITIONS

1. The location, names and widths of improved and unimproved streets within or adjacent to the subdivision.

2. The location, width and use or purpose of any easement on the property.
3. Contour lines sufficient to show the direction and general grade of land slope. Contours shown on United States Geological Survey maps may be superimposed for this purpose.
4. The location and direction of natural watercourses and areas subject to flooding.
5. The location of structures, irrigation canals and ditches, pipelines, and railroads, and natural features such as rock out-croppings and cover which are of an area or size sufficient to influence the design of the subdivision.
6. The location of city boundary lines and the boundary lines of public districts, which lie within the subdivision, or within 500 feet of the exterior boundaries of the subdivision.
7. A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets and any public sewer and water utilities and services in the area.
8. The location of any overlying or adjacent renewable energy resource site contained in the County inventory.

C. INFORMATION CONCERNING PROPOSED DEVELOPMENT

1. The location, names, width, approximate grades and curve radii of all proposed streets
2. The location, width and purpose of proposed easements.
3. The location and approximate dimensions of lots; proposed lot and block numbers.
4. The location, approximate acreage and approximate dimensions of areas proposed for public use.
5. The proposed use of any lot which is not intended for single-family residential use.
6. An outline of the areas proposed for partial recording of a final plat if phased recording is contemplated.

- D. THE ESTIMATED TIME WHEN IMPROVEMENTS ARE PROPOSED TO BE MADE OR INSTALLED.
- E. DESCRIPTION OF ANY COMMUNITY FACILITIES WHICH WOULD SERVE THE PROPOSED SUBDIVISION.
- F. JUSTIFICATION AND REASONS FOR ANY EXCEPTIONS TO THE PROVISIONS OF THIS ORDINANCE WHICH ARE BEING REQUESTED UNDER THE PROVISIONS OF ARTICLE 7.
- G. PROOF OF OWNERSHIP

A letter from a licensed title company stating the recorded owner(s) of the land proposed to be subdivided.

Section 504. Filing Fees

A non-refundable fee shall be paid to the County by the subdivider, series partitioner or partitioner at the time of filing. Said fee, for subdivisions, shall be \$200 plus \$10.00 per lot with a maximum of \$500.00. The Planning Commission or the County Court shall set fees for series partitions and minor and major partitions.

Section 505. Subdivision, Series Partitions and Major Partition Review and Planning Commission Action

- A. The Planning Commission shall set a date for consideration of the preliminary plat by the Planning Commission, which date shall be within 45 days after the plat was filed unless the time limit for review and action on the plat is extended by mutual agreement of the Planning Commission and the subdivider. Within fourteen (14) days of receipt of the preliminary plat, the Subdivision Committee shall convene at the subdivision conference as specified in Article 4 of this ordinance and shall prepare for the Planning Commission a written report of their recommendations regarding the proposed subdivision. Written report to the Planning Commission by the Subdivision Committee shall be submitted to the Planning Office at least four (4) days prior to the date of Planning Commission consideration. Failure to submit such report by any member of the Subdivision Committee shall be deemed approval of the preliminary plat by such member.
- B. The Planning Commission shall consider the recommendations of the Subdivision Committee and other agencies and determine whether the

preliminary plat is in the conformity with the provisions of this ordinance. Upon that basis, the Planning Commission shall, by resolution, approve, conditionally approve, or disapprove the proposed subdivision. Within five (5) days of Planning Commission action on the preliminary plat, the Planning Commission shall report such action in writing directly to the subdivider and his planner, engineer or surveyor. Approval of the preliminary plat shall constitute approval of the final plat, subject to the requirements of Article 6 of this ordinance, if there is no change in the plan of the subdivision at the time of filing the finale plat. If the map is disapproved by the Planning Commission, the reasons therefor shall be set forth in the report to the subdivider. If the preliminary plat is approved subject to conditions shall relate only to the authority granted to the Planning Commission by this ordinance. A preliminary plat approved subject to conditions by the Planning Commission need not be revised to reflect such conditions, but such conditions shall be reflected in the preparation of the final plat.

- C. If no action is taken by the Planning Commission within the time limits prescribed above in this Section, the preliminary plat as filed shall be deemed to be approved and it shall be the duty of the Planning Commission to certify the approval.
- D. Within fifteen (15) days after the date of the Planning Commission's action, the Planning Commission shall transmit the complete record of its review and action to the County Court. Upon receipt of the record, the County Court may review the decision of the Planning Commission. The County Court may affirm, reverse or modify the decision of the Planning Commission provided that such decision is not in conflict with the provisions and intent of this ordinance. Unless notified within twenty (20) days, the decision of the Planning Commission shall be affirmed.
- E. If the subdivider, or any other party, is dissatisfied with any action of the Planning Commission with respect to the preliminary plat, he may, within ten (10) days of such action, appeal the action of the Planning Commission to the County Court. An appeal shall be filed with the Court, in writing, and shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Commission. The Court shall give notice to the appellant and the Planning Commission of the date when the appeal of the subdivider is to be heard. At its next regular meeting, the County Court shall review the action of the Planning Commission and the written appeal of the appellant and shall report its action to the appellant and to the Planning Commission in writing. When an appeal is filed and heard by the County Court, such hearing shall constitute meeting the requirements of review and action by the County Court as prescribed in Paragraph D of this Section.

Section 506. Minor Partition Review

- A. Minor partition maps shall be reviewed by the Planning Commission and shall be approved, conditionally approved, or disapproved at the earliest regular scheduled meeting after the date of filing. If the map is approved subject to conditions, these conditions shall relate only to the provisions of this ordinance.
- B. Within five (5) days after the decision has been rendered, the Planning Director shall provide the applicant with written notice of the decision of the Commission.
- C. If the partitioner is dissatisfied with any action of the Planning Commission with respect to the preliminary map, he may, within fifteen (15) days of such action, appeal to the County Court. Written notice shall be filed with the Planning Director. If the appeal is not filed within the fifteen (15) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the County Court shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal.

Section 507. Termination of Preliminary Map Approval

Failure by the subdivider, series partitioner or partitioner to record a final plat within eighteen (18) months of the date of approval or conditional approval of the preliminary plat by the Planning Commission shall terminate all proceedings, provided, however, that upon application of the subdivider in writing, an extension of time not exceeding one (1) year may be granted by the Planning Commission. In the event the Planning Commission denies a subdivider's application for extension, the subdivider may appeal to the County Court. Where proceedings have terminated because of failure to record a final plat or failure to receive extension by the Planning Commission or County Court, a new preliminary plat shall be filed in accordance with the provisions of this ordinance before a final plat may thereafter be recorded or any lot sold.

ARTICLE 6, FINAL PLAT

Sections:

- 601. [Requirements](#)
- 602. [Fees](#)
- 603. [Form of Final Plat](#)
- 604. [Information on the Final Plat](#)
- 605. [Survey Requirements](#)
- 606. [Certificate on Final Plat](#)
- 607. [Dedications and Public Utility Requirements](#)
- 608. [Designation and Conveyance of Reserve Strips as Lots](#)
- 609. [Improvement Plans](#)
- 610. [Improvements](#)
- 611. [Monuments](#)
- 612. [Evidence of Water Supply](#)
- 613. [Procedure for Processing Final Plat](#)
- 614. [Improvements Agreement](#)
- 615. [Deed Notation of Resource Site](#)

Section 601. Requirements

Within eighteen (18) months after approval or conditional approval of the preliminary plat, the subdivider may cause the subdivision or any part thereof to be surveyed and a final plat to be prepared in conformity with the preliminary plat as approved or conditionally approved. The subdivider shall file with the County Engineer one (1) complete set of original tracings and two (2) complete sets of black and white or blue-line prints of the final plat, and one (1) copy of the deed restrictions applicable to the subdivision. The final plat shall conform to the requirements of this Article and shall follow the procedures established herein.

Section 602. Fees

At the time of filing the final plat, the subdivider shall pay such fees to the County Clerk as may be set by resolution of the County Court.

Section 603. Form of Final Plat

The final plat shall be submitted in the form prescribed by the Plats and Subdivision Act.

Section 604. Information on the Final Plat

The final plat shall show the following:

- A. The plat number and name of the subdivision, if any, date of preparation, north point and scale.
- B. A legal description of all property being subdivided, by reference to recorded subdivisions and sectional surveys.
- C. Affidavits, certificates, acknowledgements, endorsements, acceptances of dedication and notarial seals required by law and by this ordinance.
- D. The locations, names and widths of streets.
- E. The locations and widths of pedestrian ways.
- F. The locations and dimensions of public areas and the net acreage.
- G. The widths and sidelines of all easements to which the lots are subject, and the book and page number of the County records in which the easement appears. If the easement is not definitely located on record, the dimensions of the easement shall appear on the drawing. Broken lines shall denote easements for utilities and other similar purposes.
- H. Locations and widths of drainage channels, railroad rights-of-way, reserve strips, and of streets, alleys and pedestrian ways adjacent to the proposed subdivision.
- I. Limitations on rights of access to and from streets and lots and other parcels of land; dedications of access rights to specific lots where appropriate.
- J. City boundary lines, near or adjacent to the subdivision.
- K. Normal high water lines for any creek, river, or other body of water.
- L. The net dimensions of each lot. Ditto marks may be used where lot dimensions are repetitively identical. Sufficient data shall be shown to determine readily the bearing and length of each lot line.

- M. Lot number beginning with number "1" and numbered consecutively in each block; block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the same name shall be a continuation of the numbering in the original subdivision.
- N. Any additional information required by the Planning Commission as a condition of preliminary plat approval.
- O. The following Surveying data:
 - 1. The radius, length and central angle of curves.
 - 2. The location of all permanent monuments within the proposed subdivision.
 - 3. Ties to and names of adjacent subdivision.
 - 4. Ties to any boundary lines involved.

Section 605. Survey Requirements

- A. A complete and accurate survey of the land to be subdivided shall be made by an engineer or surveyor licensed to practice in the State of Oregon, in accordance with standard practices and principles of land surveying.
- B. The traverse of the exterior boundaries of a subdivision plat and of each block and lot shall close within a limit of error as specified by State law.

Section 606. Certificates on Final Plat

The following certificates and acknowledgments and others required by State law shall appear on the final plat. Such certificates may be combined where appropriate.

- A. A certificate of ownership, signed and acknowledged by the record owner and all parties owning an interest in the property, consenting to the preparation and recordation of the final plat, offering for dedication all parcels of land, streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way intended for public use, and, offering for dedication rights of access to and from prescribed streets, lots and parcels of land.

- B. A certificate of the registered engineer or licensed surveyor who prepared the survey and the final plat.
- C. A certificate for execution by the Chairman of the Planning Commission on behalf of the Planning Commission.
- D. A certificate for execution by the County Engineer.
- E. A certificate for execution by the County Assessor.
- F. A certificate of execution by the County Court.

Section 607. Dedications and Public Utility Requirements

- A. All parcels of land shown on the final plat as intended for public use shall be offered for dedication for public use at the time the plat is filed, except those parcels which are intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and servants, and except parcels of land reserved for public use under the provisions of Section 307 of this ordinance.
- B. All streets, pedestrian ways, drainage channels, easements and other rights-of-way shown on the final plat as intended for public use, shall be offered for dedication for public use at the time the final plat is filed.
- C. All rights of access to and from streets, lots and parcels of land shown on the final plat intended to be surrendered shall be offered for dedication at the time the final plat is filed.

Section 608. Designation and Conveyance of Reserve Strips as Lots

One (1) foot reserve strips provided across the end of stubbed streets adjoining unsubdivided land or along half streets adjoining unsubdivided land shall be designated provided, however, that such reserve strip lots shall be exempt from all other provisions of this ordinance to lots. These reserve strips shall be offered to the County for dedication at the time the final plat is recorded; however, all rights of vehicular access across said reserve strips shall be abandoned until such time as the County acquires additional adjacent right-of-way.

Section 609. Improvement Plans

The County Road Department may require, where topographical and drainage conditions warrant, improvement plans showing street grades and physical improvements, natural drainage ways and drainage works.

Section 610. Improvements

- A. The subdivider shall improve, or agree to improve all lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way as a condition precedent to acceptance thereof and approval of the final plat, subject to the exceptions prescribed under Paragraph J, Section 301 of this ordinance.
- B. Improvements shall conform to the specifications of design and materials as provided in the standard specifications adopted by the County Court. The subdivider shall give notice to the County Road Department prior to the commencement of construction of improvements.
- C. The County shall have the right to enter upon the sites or improvements for the purpose of inspecting them.

Section 611. Monuments

- A. All monuments shall be marked or tagged according to the provisions of State law.
- B. In making survey for the subdivision, the surveyor shall set sufficient, permanent monuments prior to the recording of the final plat so that the survey or any part thereof may be readily retraced. The size, type and depth of monuments shall be in accordance with the Standard Specifications.

Section 612. Evidence of Water Supply

Proof of available water supply adequate to serve each lot as required in Section 205 of this ordinance shall be provided prior to approval of the final plat by the Planning Commission and acceptance by the County Court.

Section 613. Procedure for Processing Final Plat

The County Planning Commission shall be responsible for the final plat conformance to preliminary plat approval and final plat processing and submittal to the Court pursuant to the provisions of this Section.

- A. The final plat shall be submitted to the County Engineer who shall examine the final plat and determine the sufficiency of the affidavits and acknowledgments, the correctness of surveying data, mathematical data and computations, and determine whether the provisions of the Plats and Subdivisions Act and the Final Map requirements of this ordinance have been complied with. The subdivider shall provide traverse sheets and work sheets or accurate and complete electronic computations showing the closure of the exterior boundaries of the subdivision as required by the County Engineer. The final plat shall be returned to the subdivider with notations as to errors or omissions, if any. If the final plat is found to be correct, the matters shown thereon are sufficient and all applicable provisions of the Plats and Subdivisions Act and this ordinance have been complied with, the County Engineer shall certify his approval on the original plat.
- B. Any required improvement plans, profiles and specifications of proposed improvements shall be submitted to the County Road Department for approval at the time the final plat is submitted for checking. Such plans and profiles shall show the full details of the proposed improvements. Where standards and specifications are the same as those adopted by the County Court, they may be submitted by reference.
- C. Any performance agreement required shall be submitted to the County Road Department on forms provided thereby. The Road Department shall determine that the security amount proposed pursuant to Section 614 herein, is adequate to cover the cost of all required improvement and related work. Where improvement plans are required, approval of such plans shall include a performance agreement.
- D. After the final plat has been checked and certified by the County Engineer, the final plat shall be submitted to the County Planning Commission who shall deliver the plat to the Assessor for certification (unless done by the subdivider or agent). If the final plat conforms to the preliminary plat as approved by the Planning Commission and no changes have been made which the Planning Commission has not approved, the Chairman of the Planning Commission shall certify the final plat on behalf of the Commission.
- E. After the final plat has been checked and approved as provided in this Section, and when all the certificates which appear on the final plat except the approval certificates of the County Court and County Clerk, have been signed and, where necessary, acknowledged, the Planning Commission shall certify

the final plat and submit the plat along with any proposed improvements agreement to the County Court for approval. The Planning Director shall so notify the subdivider.

- F. Upon receipt of the final plat, the County Court shall consider said plat, the plan of the subdivision and the offers of dedication in accordance with the requirements of this ordinance. If the subdivider has entered into an agreement with the County Court in accordance with the provisions of Section 614 of this ordinance, the County Court shall approve the final plat. No plat shall have any force or effect until the same has been approved by the County Court and no title to any property described in any offer of dedication shall pass until the final plat has been recorded.

Section 614. Improvements Agreement

- A. Prior to the approval by the County Court of the final plat, the subdivider shall execute and file an agreement between himself and the County Court, specifying the period within which he or his agent or contractor shall complete all improvement work, and providing that, if he shall fail to complete such work within such period, the County shall call upon the Surety to complete the same. The agreement shall provide for inspection of all improvements by the County. Such agreement may provide (a) for the construction of the improvements in units, (b) for an extension of time under conditions therein specified, and (c) for progress payment. The subdivider shall file with the aforesaid agreement, to assure his full and faithful performance thereof, a bond for such sum as is, by the County Road Department, deemed sufficient to cover the cost of said improvements, and incidental expenses and to cover replacement and repair of existing streets and other improvements damaged in the development of the subdivision. A surety company authorized by the District Attorney as to form shall execute such bond. In lieu of said bonds; the subdivider may elect any one other following alternatives to assure full and faithful performance.
1. The subdivider may deposit with the County cash money in an amount fixed as aforesaid by the County.
 2. The subdivider may submit written certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that it will be released only upon authorization of the County as the case of cash.
 3. Bond acceptable to the County Court.

4. The subdivider may enter into an agreement with the County Court setting forth the period of time within which he plans to construct improvements, either in whole or part. Such agreement shall specify that the subdivider shall deposit in an escrow account for the benefit of the County an amount of money equal to twice the pro-rata share of improvement costs for the entire subdivision attributable to a single lot, at the time of sale of said lot; provided, however, that: (1) this alternative procedure shall be permitted only for a final plat not exceeding twenty (20) lots; (2) this alternative procedure shall not be permitted for subsequent phases of development until the improvements in the initial final plat have been completed; and (3) such agreement will not extend more than 12 months from the date of execution unless extended by the County Court as an amendment to the agreement.

Section 615. Deed Notation of Resource Site

Within the agreement called for in Section 614, the land developer shall also agree to note within the deeds of sale for all property in the land development, the type and location of the resource site described in Section 604(p).

ARTICLE 7, VARIANCES

Sections:

- 701. [Variances Authorized](#)
- 702. [Application](#)
- 703. [Referrals](#)
- 704. [Action of Planning Commission](#)
- 705. [Appeal to County Court](#)
- 706. [Planned Unit Development](#)

Section 701. Variances Authorized

Variations and conditional variations to the regulations prescribed by this ordinance may be authorized by the Planning Commission in accordance with Section 704 of this article.

Section 702. Application

Application for a variance will be made to the Planning Commission on a form prescribed by the Commission. The subdivider shall state fully the grounds of the application, the facts relied upon and any other data pertinent to the findings prerequisite to the granting of a variance prescribed in Section 704 of this Article. The application shall be filed at the time of filing the preliminary plat of a subdivision.

Section 703. Referrals

The Planning Commission shall transmit copies of the application for a variance to the Subdivision Committee together with requests for recommendations on the proposed variance. Any variations requested by the subdivider shall be made the subject of study by the Subdivision Committee and they are to report to the Planning Commission.

Section 704. Action of Planning Commission

The Planning Commission shall consider the application for a variance at the same meeting at which it considers the preliminary map. A variance may be granted unqualifiedly, or may be granted subject to prescribed conditions, provided that the Commission shall make all of the following findings:

- A. That there are special circumstances or conditions affecting the property that do not normally apply to other property and that such circumstances or conditions make it impossible or impractical to comply with the ordinance.
- B. That the variance is necessary for the proper design and/or function of the subdivision.
- C. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
- D. That the granting of the variance is in accordance with the purposes and objectives prescribed in Article 1 of this ordinance.
- E. That the variance is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this ordinance.

The Planning Commission shall deny an application for a variance if the Commission cannot make the findings prescribed above.

Section 705. Appeal to County Court

The Planning Commission's action on an application for a variance may be made the subject of an appeal by the subdivider to the County Court. The appeal shall be filed with the Court in writing within ten (10) days after Planning Commission action and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Planning Commission. The County Court may sustain, reject or overrule any recommendations or rulings of the Planning Commission, provided, however, that such action shall not be inconsistent with the provisions of this ordinance.

Section 706. Planned Unit Development

A. PURPOSE AND UTILIZATION

1. Planned unit developments, involving the careful application of design, are encouraged to achieve a more functional, esthetically pleasing and harmonious living environment within the County than might be achieved otherwise through strict adherence to the regulations of this ordinance. In certain instances, the objectives of this ordinance may be achieved by the development of planned units, which do not conform, with the more conventional standards of subdivision design and improvement prescribed by this ordinance.
2. A planned unit development approach may be utilized in the design and development of an urban or rural recreation subdivision, but may be utilized for a rural subdivision.
3. A planned unit development may include lots, blocks, streets and other improvements in an arrangement which will accommodate a variety of dwelling types and a variety of land uses which are made to complement each other and harmonize with existing or planned uses in the vicinity, by innovation in design.

B. AUTHORITY OF PLANNING COMMISSION

In order to provide for the design and location of such well planned developments, the Planning Commission is empowered to grant exceptions to the regulations of this ordinance, following review and recommendation by the Subdivision Committee, in the manner prescribed by this Article and this Section. A Planned Unit Development is allowed in each zone as a Conditional Use. The Subdivision and Conditional Use proceedings may be held concurrently.

C. STANDARDS

1. A planned unit development may involve a plan and program for the development of a complete community or unit thereof; provided, however, that a planned unit development shall involve a site area of not less than 10 acres.
2. The standards of rights-of-way, street improvements and subdivision design may vary from those prescribed in Articles 2 and 3 of this ordinance, provided that the subdivider can demonstrate by his design proposal and such additional evidence as may be submitted that the

purpose of this Article and the objectives of this ordinance will be achieved.

3. The minimum area, width, depth and frontage of lots may be less than that prescribed in Section 302 of this ordinance, provided that reductions in lot areas are compensated for by open space. Rural Recreation Subdivisions may have similar reductions in lot requirements when a domestic water system is developed.
4. Planned development subdivisions may be designed to provide for increased overall densities up to fifty percent (50%) more than that which would be created by the strict adherence to the minimum standards of Section 302 for urban subdivisions provided that the subdivision is designed for the following purposes:
 - a. A building development project, rather than for a lot sale or promotional sales program.
 - b. Cluster housing development for the purpose of obtaining maximum open space and/or recreation benefits.
 - c. Maintenance of Open Space: As a condition of approving a planned unit development and granting modifications to the standard subdivision requirements, the subdivider shall present in writing with the tentative maps the means by which the preservation and permanent maintenance of the open spaces or recreational areas, which includes all private driveways, walkways and other areas owned in common, is to be accomplished and the payment of taxes thereon assured. No exceptions to the standard subdivision requirements shall be permitted unless the Planning Commission determines that the subdivider has adequately provided for the permanent maintenance of open space and payment of taxes.

ARTICLE 8, PENALTIES,
ENFORCEMENT,
CONSTITUTIONALITY, ENACTMENT

Sections:

- 801. [Penalties](#)
- 802. [Enforcement](#)
- 803. [Voidable Conveyance](#)
- 804. [Compliance with Oregon Real Estate Regulations](#)
- 805. [Constitutionality](#)
- 806. [Amendment, Repeal](#)
- 807. [Enactment](#)

Section 801. Penalties

Any offer to sell, contract to sell, sale, or deed of conveyance of a subdivision or any part thereof, before a final plat thereof in full compliance with the provisions of this ordinance has been duly recorded shall be a misdemeanor, and any person, firm, partnership or corporation, upon conviction thereof, shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment, except that nothing herein contained shall be deemed to bar any legal, equitable, or summary remedy to which the county or any other political subdivision, or person, firm, partner-ship or corporation may otherwise be entitled; and the county or any other political subdivision, or person, firm, partnership or corporation may file suit in the superior court of the county to restrain or enjoin any attempted or proposed subdivision or sale in violation of this ordinance.

Section 802. Enforcement

It shall be the responsibility of the Planning Commission to notify the District Attorney of any violation of this ordinance and to sign any necessary complaints.

Section 803. Voidable Conveyances

Any deed of conveyance, sale or contract to sell made contrary to the provisions of this ordinance is voidable at the sole option of the grantee, buyer or person contracting to purchase, his heirs, personal representative, or trustee in insolvency or bankruptcy within one (1) year after the date of execution of the deed of conveyance, sale or contract to sell, but the deed of conveyance, sale or contract to sell is binding upon any assignee to transferee of the grantee, buyer or person contraction to purchase, other than those above enumerated, and upon the grantor, vendor, or person contracting to sell, or his assignee, heir or devisee.

Section 804. Compliance with Oregon Real Estate Regulations

Prior to the sale of or contract to sell any lot within subdivision, a final subdivision plat shall be recorded and the subdivider shall file a "Notice of Intent" with the Oregon State Board of Real Estate.

Section 805. Constitutionality

If any section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The County Court of the County of Harney hereby declares that it would have passed this ordinance and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more of other sections, sub-sections, clauses or phrases be declared invalid or unconstitutional.

Section 806. Amendment, Repeal

This ordinance may be amended or repealed as provided by law.

Section 807. Enactment

This ordinance shall take effect and be in force at the expiration of 21 days from and after its passage, which date is _____.

Passed and adopted by the County Court of Harney County, State of Oregon of the _____ day of _____, 19 .